

Enforcement Strategy Development Second Presentation

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Strategic Plan Action Item

- ***Data-Driven Enforcement: Develop and/or revise a systematic and data-driven enforcement strategy and policy to set enforcement priorities, improve compliance, improve regulatory and legal effectiveness, and use resources more efficiently.***

October 20, 2016 Presentation

- Six-step Regulatory Process
- Current Practices
- Systemic Gaps in Current Practices
- Possible Solutions to Gaps in Practices
- Next Steps
- Enforcement Committee Role

Enforcement Committee's Recommendations on 10.20.2016

- Use the existing tools (Scharff)
- Bring cases to the Enforcement Committee quickly (Scharff)
- Assure that process for stipulated vs. contested enforcement proceeding is clear and consistent (Techel)
- Identify and resolve worst violations and violators (Ranchod)
- Paper violations are important (Scharff)
- Address the backlog (Scharff)
- Promote public awareness of enforcement actions (Ranchod)
- Investigate recouping staff expenses (Addiego)
- Increase flexibility in use of funds (Ranchod)

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Primary Focus of Enforcement Strategy

- Dedicate 80% of staff resources to resolving the worst cases
- Dedicate 20% of staff resources to resolving the easiest paper violations

The Regulatory Process in Six Steps

- How Permits Are Prepared
- Post-Permit Issuance (i.e. Compliance Assistance)
- How Violations Are:
 - Discovered
 - Catalogued
 - **Selected**
 - Resolved

Current Case Selection Practices and Violation Types

- No Formal Case Selection System
- 25% failure to fully implement permit
- 25% long term maintenance issues
- 50% unpermitted
 - 25% unpermitted and no permit
 - 25% unpermitted with permit

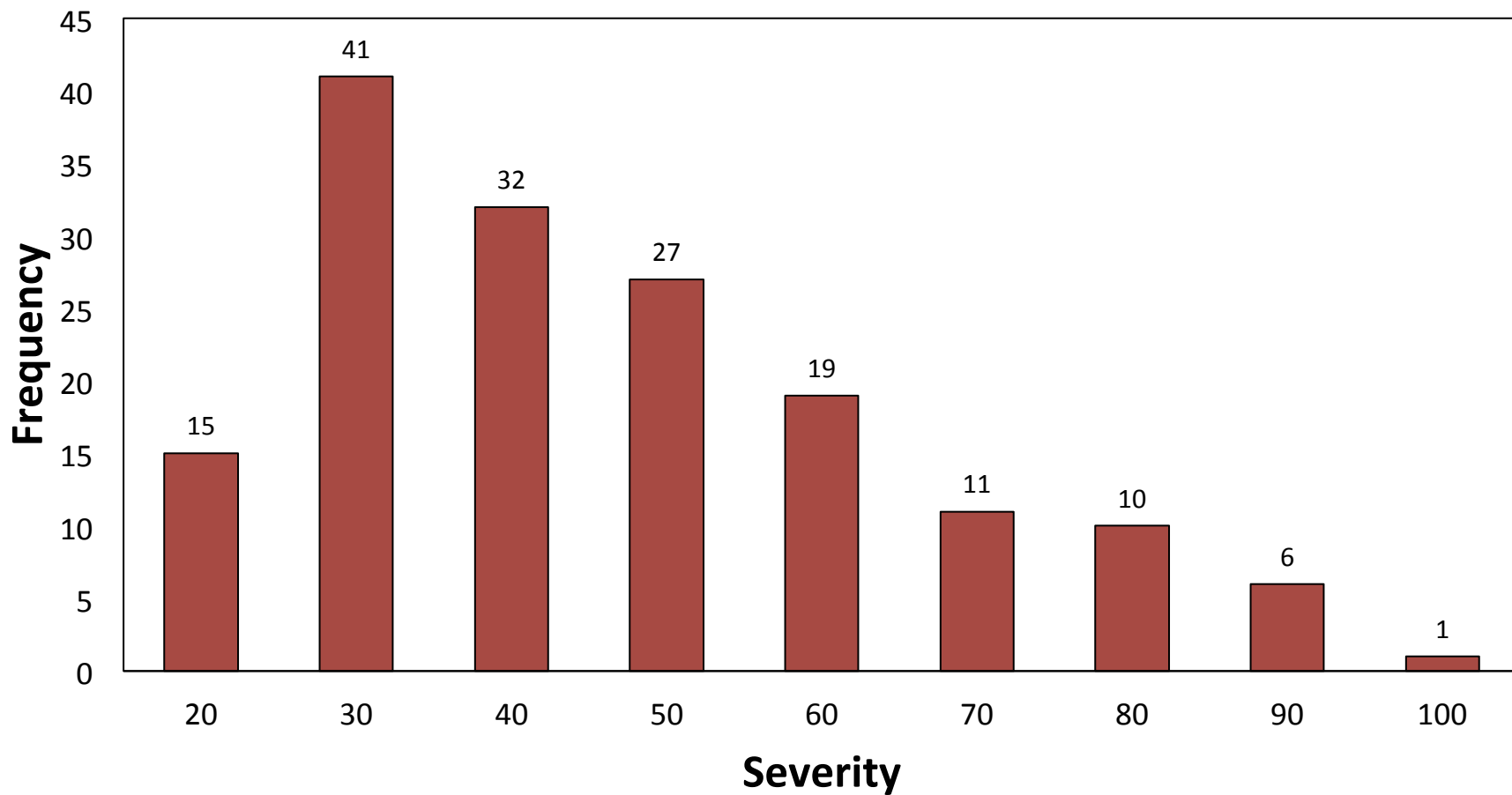
Violation Selection Gaps

- No Prioritization System
- Are We Resolving the Right Violations?
- How Should We Address the Backlog?

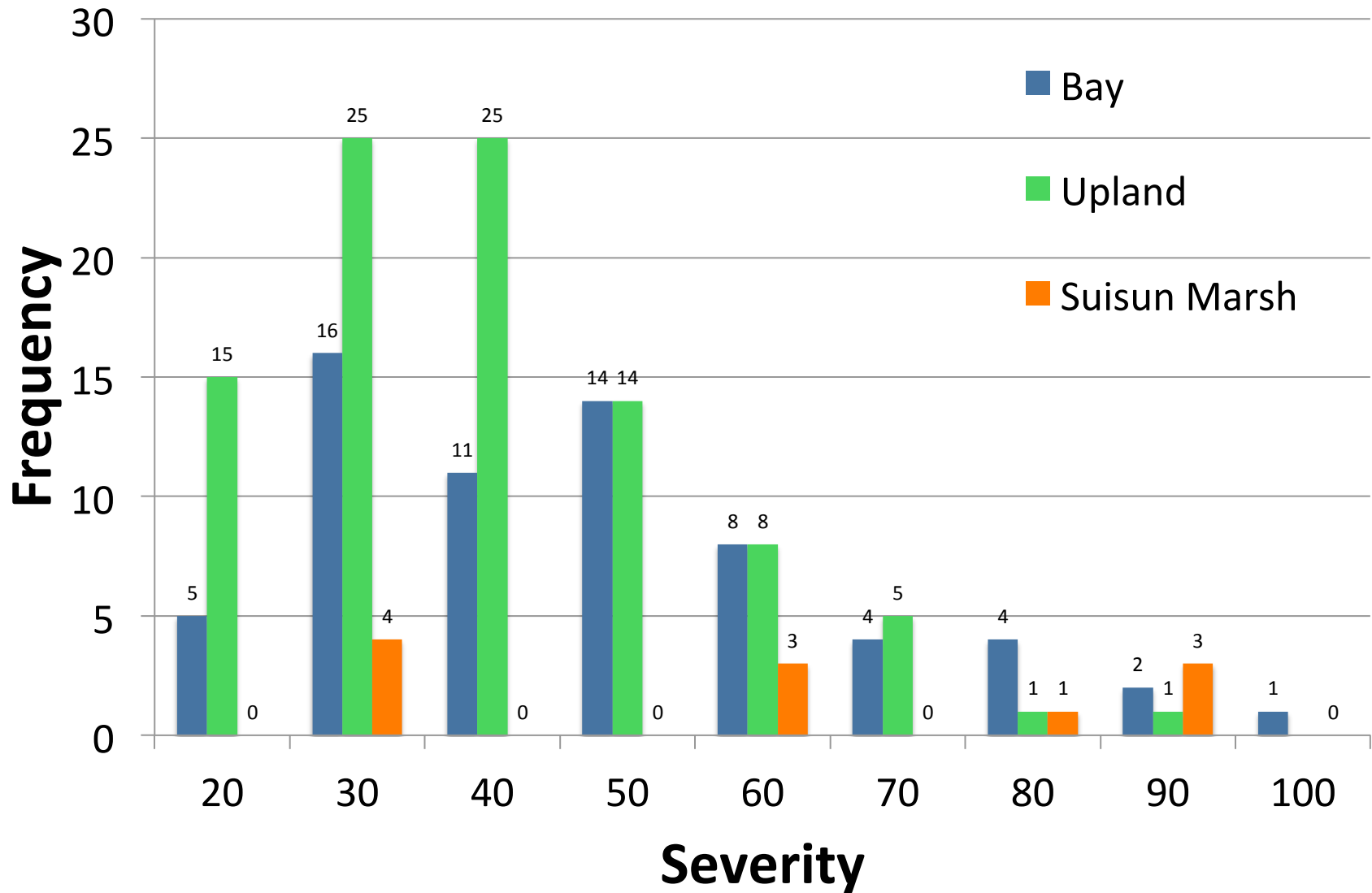
Case Selection Solution

- Have Developed Two Prioritization Systems
 - Physical Violations
 - Paper Violations
- Have Scored 162 Physical Violations By Six Attributes (Bay, Upland, Suisun Marsh)
 - Habitat Value
 - Durability or Permanence of Change
 - Toxicity/Health & Safety
 - Amount and Size
 - Nature, Type or Use
 - Visibility

Histogram of Total Prioritization Scores



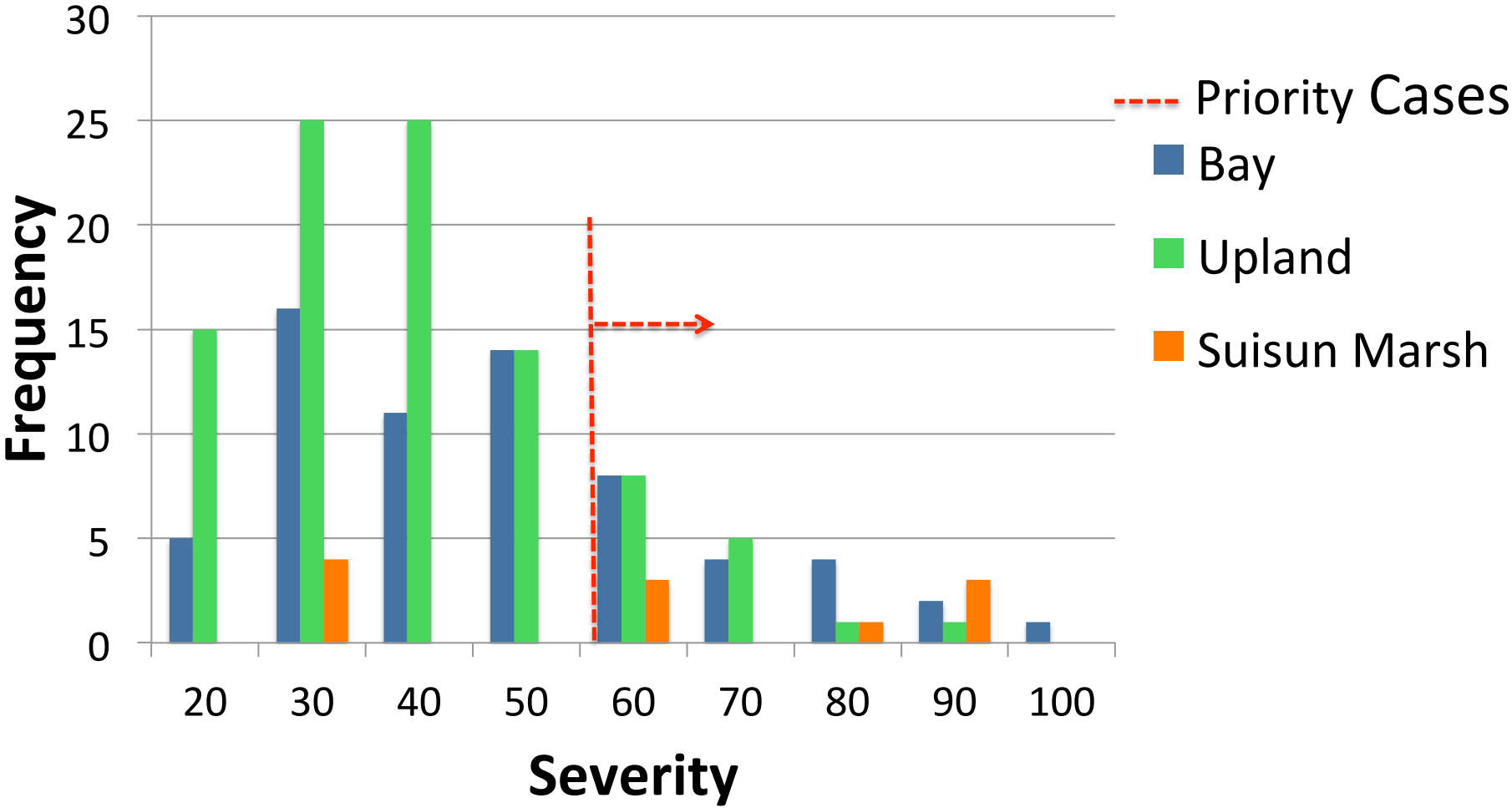
Histogram for Prioritization Scores



Staff Recommendation Regarding Resolving Highest Priority Cases

- Dedicate 80% of staff resources to resolving highest priority physical violations
- Highest priority cases score greater than 60
- Equals 20% of total scored cases (i.e. 32 of 162)
- Staff is currently working on 6-8 of these cases
 - Includes John Sweeney/Point Buckler LLC and Marina Village Associates
- This initiative will take 3-4 years

Histogram for Prioritization Scores



Exception to the Ranking

- Resolve large number of cases from a single party (i.e. worst violators)
- Creates an efficiency of resources
- Promotes future voluntary compliance

Remaining 20% Allocation

- Commence Permit Compliance Initiative with recently-issued permits
 - Expect exclusively paper violations (vs. physical)
 - Expect issues to be discrete
 - Expect time to be measurable
 - Predictable investment of staff resources

Benefits of Early Permit Compliance (i.e. proper permit implementation)

- Reduces the frequency and severity of future violations
- Has potential to eliminate 50% of our violations
- Challenge: No permit compliance program/
staff

Paper Violation Prioritization

- Assessed Each Type By Impact
- Assessed Each Type by Effort to Resolve
- Scored Impact and Effort with three simple categories (high, medium, low)

High Priority Paper Violations

- Failure to submit:
 - Property interest
 - Post-dredge survey
 - Owners' association CC&Rs
 - Monitoring plans & reports for bay restoration projects
 - Emergency permit applications
 - Any construction plans for a constructed project

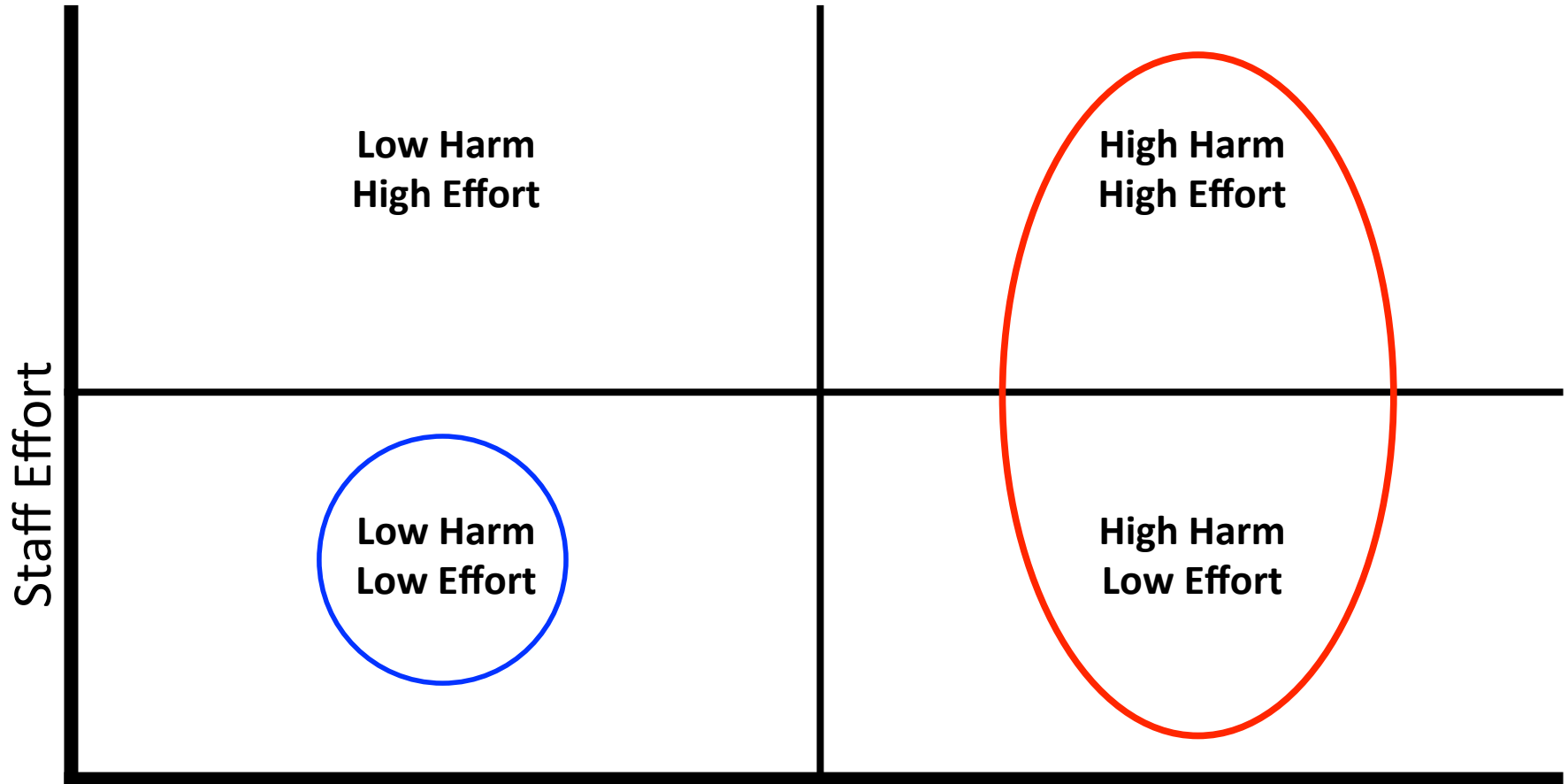
Medium Priority Paper Violations

- Construction does not conform to plan approval but fix is plan revision
- Partial absence of construction plans for constructed project
- Failure to Submit:
 - Executed Original of the Permit prior to construction
 - Foundation Layout Inspection
 - Recorded Legal Instrument to Dedicate Public Access, Open Space or View Corridor Areas prior to occupancy
 - Annual Live-aboard Documentation
 - Permit Assignment (if permit is not recorded on title)

Low Priority Paper Violations

- Failure to Submit:
 - Certificate of Contractor Review
 - Permit Assignment (if permit is recorded on title)
 - Notice of Completion
 - Recorded Permit

Expectation for Resource Allocation



Harm to Bay Resources or Public Access

Blue Circle = 20% Resource Allocation To Simple Permit Compliance

Red Oval = 80% Allocation to Highest Harm Cases

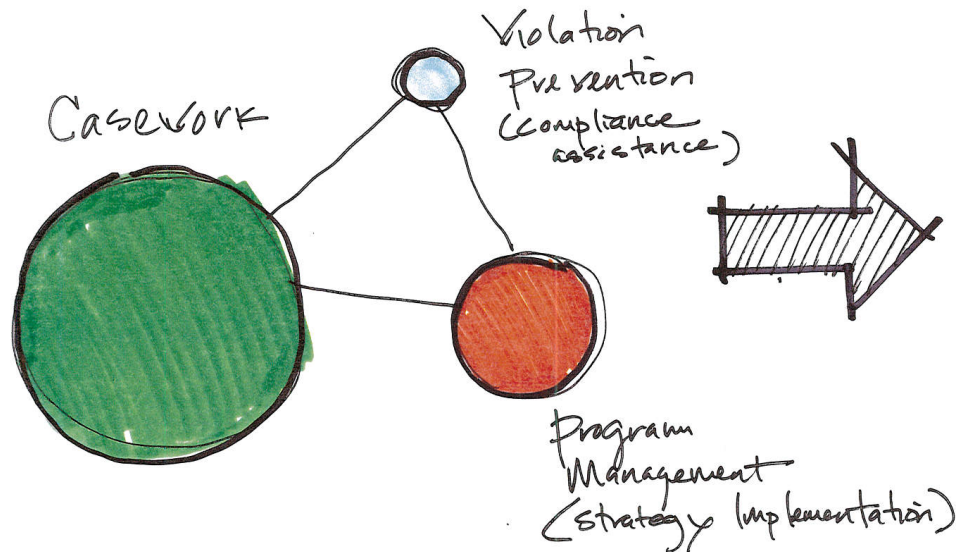
Staff Recommendation Regarding The Backlog

- Total Caseload (188) + Total Staff (6) = Backlog
- Staff = 3 analysts + 2 counsels + 1 secretary
- Too soon to close any of the non-priority cases
 - No Existing Method to Reliably Estimate Effort to Resolve a Case
 - Wait one year and re-examine based on learnings

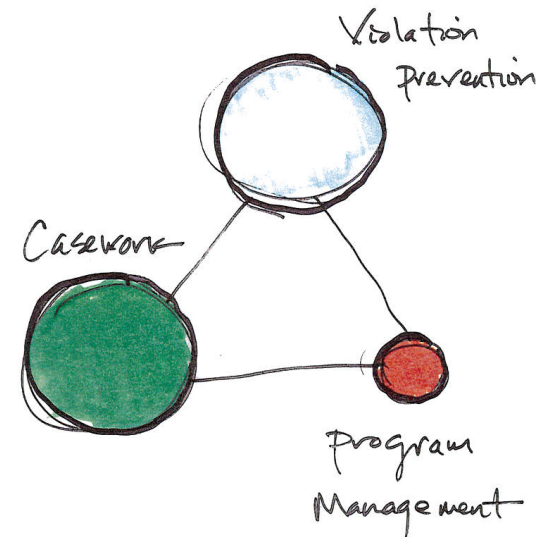
Desired Shift In Resource Distribution

Casework – Violation Prevention – Program Management

TODAY



2019



Other Initiatives

- Violation Discovery Improvements
 - Website instructions and reporting form
- Cataloguing Improvements
 - Integrate prioritization attributes into reporting form
 - Establish Enforcement Layer in GIS Database
- Establish Permit Compliance Protocol
- Regulation Changes

What Comes Next?

- Identify and resolve worst violations and violators (Ranchod)
- Paper violations are important (Scharff)
- Address the backlog (Scharff)
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Comments and Questions?

Thank you!